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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,688	03/30/2004	Justin Azriel Okun	AWK03-060	4032

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UNISYS CORPORATION
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EXAMINER

BONURA, TIMOTHY M

ART UNIT	PAPER NUMBER
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2114

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/812,688	OKUN ET AL.	
	Examiner	Art Unit	
	Tim Bonura	2114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 11 is/are rejected.
- 7) ☒ Claim(s) 7-10 and 12-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/21/04 & 3/30/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

- **Claims 1-6, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Voigt, et al, U.S. Patent Number 5,623,598.**

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Voigt, et al, U.S. Patent Number 5,623,598.

4. Regarding claim 1:

- a. Regarding the limitation of "a network of multi-processors having a series of local systems operated by Client-Users wherein a series of defined operating policies (P) are stored along with acceptable parameter limits for each policy, each said policy having parameters for desired sample sets and upper U and lower L limits on counter values associated with each system resource, a method for developing a health trend analysis of future possible problems in network resources," Voigt discloses a system with a performance metric evaluation measurement over time to judge computer specification within the specified evaluation range to device a representative average performance

metric. (Lines 67-60 of Column 6). These performance metrics can be compared against historical data to determine computer performance. (Lines 5-15 of Column 6). The performance metrics are used to gauge optimal performance of a data storage system of computer accesses a data storage system. (Lines 60-62 of Column 1 and Figure 2).

b. Regarding the limitation of "initializing an algorithm for processing a selected health trend policy (P)," Voigt discloses a system with performance history constructed to indicate performance over a period of time. (Lines 65-67 of Column 1).

c. Regarding the limitation of "collecting a sample set of data points for said selected policy," Voigt discloses a system with the ability to sample a systems performance from any part of the system. (Lines 20-25 and 60-65 of Column 5).

d. Regarding the limitation of "performing basic calculations to provide a summary of said sample set," Voigt discloses a system with multiple thresholds or tolerance computations for each metric. (Lines 20-24 of Column 7).

e. Regarding the limitation of "analyzing said summary based on the nature of said selected health policy in order to determine whether that summary supports the conclusion of an upward trend or downward trend," Voigt discloses a system with in which a trend can be spotted or no trend spotted by displaying an "in spec" notice or and "out of spec" notice. (Lines 33-35 and Lines 40-45 of Column 7). Voigt discloses a system with a performance metric evaluation measurement over time to judge computer specification within the specified evaluation range to device a representative average performance metric. (Lines 67-60 of Column 6).

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5. Regarding claim 2, Voigt discloses a system with in which a trend can be spotted or no trend spotted by displaying an "in spec" notice or and "out of spec" notice. (Lines 33-35 and Lines 40-45 of Column 7).

6. Regarding claim 3, Voigt discloses a system with in which a trend can be spotted or no trend spotted by displaying an "in spec" notice or and "out of spec" notice. (Lines 33-35 and Lines 40-45 of Column 7).

7. Regarding claim 4, Voigt discloses a system with in which an abnormal glitch might misrepresent the actual true data trend. The use can choose to avoid a period of atypical usage. (Lines 33-35 and Lines 40-45 of Column 6).

8. Regarding claim 5:

f. Regarding the limitation of "a network of multi-processors having a series of local systems operated by Client-Users wherein a series of defined operating policies (P) are stored along with acceptable parameter limits for each policy, each said policy having parameters for desired sample sets and upper U and lower L limits on counter values associated with each system resource, a method for developing a health trend analysis of future possible problems in network resources," Voigt discloses a system with a performance metric evaluation measurement over time to judge computer specification within the specified evaluation range to device a representative average performance metric. (Lines 67-60 of Column 6). These performance metrics can be compared against historical data to determine computer performance. (Lines 5-15 of Column 6). The performance metrics are used to gauge optimal performance of a data storage system of computer accesses a data storage system. (Lines 60-62 of Column 1 and Figure 2).

- g. Regarding the limitation of "initializing an algorithm for processing a selected health trend policy (P)," Voigt discloses a system with performance history constructed to indicate performance over a period of time. (Lines 65-67 of Column 1).
 - h. Regarding the limitation of "collecting a sample set of data points for said selected policy," Voigt discloses a system with the ability to sample a systems performance from any part of the system. (Lines 20-25 and 60-65 of Column 5).
 - i. Regarding the limitation of "analyzing said summary based on the nature of said selected health policy in order to determine whether that summary supports the conclusion of an upward trend or downward trend," Voigt discloses a system with in which a trend can be spotted or no trend spotted by displaying an "in spec" notice or and "out of spec" notice. (Lines 33-35 and Lines 40-45 of Column 7). Voigt discloses a system with a performance metric evaluation measurement over time to judge computer specification within the specified evaluation range to device a representative average performance metric. (Lines 67-60 of Column 6)
9. Regarding claim 6, Voigt discloses gathering of performance metrics of a specific set a data of the system. (Lines 14-19 of Column 5). Voigt also discloses a system with a max range of values for a specified performance metric. (See table 2, Queue Max number).
10. Regarding claim 11:
- j. Regarding the limitation of "a network of multi-processors having a series of local systems operated by Client-Users wherein a series of defined operating policies (P) are stored along with acceptable parameter limits for each policy, each said policy having parameters for desired sample sets and upper U and lower L limits on counter values associated with each system resource, a method for developing a health trend analysis of future possible problems in network resources," Voigt discloses a system with a

performance metric evaluation measurement over time to judge computer specification within the specified evaluation range to device a representative average performance metric. (Lines 67-60 of Column 6). These performance metrics can be compared against historical data to determine computer performance. (Lines 5-15 of Column 6). The performance metrics are used to gauge optimal performance of a data storage system of computer accesses a data storage system. (Lines 60-62 of Column 1 and Figure 2).

k. Regarding the limitation of "initializing an algorithm for processing a specified health trend policy," Voigt discloses a system with performance history constructed to indicate performance over a period of time. (Lines 65-67 of Column 1).

l. Regarding the limitation of "collecting a sample set of data points using a counter at X points in a time interval sampling period," Voigt discloses a system with the ability to sample a systems performance from any part of the system. (Lines 20-25 and 60-65 of Column 5). Voigt also discloses a system wherein a time period can be monitored for an evaluation interval by graphical manipulation. (Lines 10-15 of Column 2).

m. Regarding the limitation of "calculating a value which represents the general increase or decrease in the allocation-utilization of a monitored resource," Voigt discloses a system with multiple thresholds or tolerance computations for each metric. (Lines 20-24 of Column 7). Voigt discloses a system with in which a trend can be spotted or no trend spotted by displaying an "in spec" notice or and "out of spec" notice. (Lines 33-35 and Lines 40-45 of Column 7). Voigt discloses a system with a performance metric evaluation measurement over time to judge computer specification within the specified evaluation range to device a representative average performance metric. (Lines 67-60 of Column 6).

Allowable Subject Matter

11. Claims 7-10 and 12-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tim Bonura**.

- The examiner can normally be reached on **Mon-Fri: 8:30-5:00**.
- The examiner can be reached at: **571-272-3654**.

13. If attempts to reach the examiner by telephone are unsuccessful, please contact the examiner's supervisor, **Scott Baderman**.

- The supervisor can be reached on **571-272-3644**.

14. The fax phone numbers for the organization where this application or proceeding is assigned are:

- **703-872-9306 for all patent related correspondence by FAX.**

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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16. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **receptionist** whose telephone number is: **571-272-2100**.

17. Responses should be mailed to:

- **Commissioner of Patents and Trademarks**

P.O. Box 1450

Alexandria, VA 22313-1450

Tim Bonura
Examiner
Art Unit 2114

January 5, 2007

A handwritten signature in black ink, appearing to read 'Tim Bonura', with a stylized flourish extending to the right.